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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michael G. Martinek

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EXAMINER

LEIVA, FRANK M

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

10/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 09/520,405	Applicant(s) MARTINEK ET AL.	
	Examiner FRANK M. LEIVA	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 15 June 2009.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 58-70, 74-76 and 78-83 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 58-70, 74-76 and 78-83 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 09 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/15/2009.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges claim amendments filed 15 June 2009 with the addition of claims 82 and 83. Although the independent claims have not been amended the examiner in order to advance a more compact prosecution has changed the references cited and makes this action non-final for the applicant to be able to respond to the newly cited art.

Response to Arguments

2. Applicant's arguments with respect to claims 58-70, 74-76, 78-83 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112 2nd Paragraph

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 64 and 65** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 64 uses the trademark name "PC", and claim 65 uses the trademark name "Linux", that point to indefinite and arbitrary definitions. The formula or characteristics of the product may change from time to time and yet it may continue to exist under the same trademark. In patent specifications, every element or ingredient of the product should be set forth in positive, exact, intelligible language, so that there will be no uncertainty as to what is meant. Arbitrary trademarks which are liable to mean different things at the pleasure of manufacturers do not constitute such language.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 58-70, 74-76, 78-79 and 82-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,592,609).**

7. Regarding Suzuki as obvious art reference, it is the examiner's point of view that although Suzuki does not specifically mentions the use of the reference invention with a wagering game; it is well known for game consoles to operate wagering games and thus would also include teachings for a computerized wagering game.

8. **Regarding claims 58, 76 and 78;** Suzuki discloses a computerized wagering game apparatus, comprising:

a computerized game controller (game processor), comprising a processor with a memory (RAM cassette 4) and an operating system stored in said memory, the controller further comprising a game state storage, a nonvolatile storage (floppy disk 8), the computerized game controller being operable to control a computerized wagering game, (fig. 1A, col. 5:19-43);

an operating system (system operation) that runs on the computerized game controller, (col. 5:19-43), the operating system comprising an operating system kernel and a system handler application, (col. 27:40-52), the operating system kernel and system handler application operable: to dynamically link with a plurality of gaming program shared objects and device handlers for the computerized wagering game, (col. 27:40-52), at run time when the computerized wagering game is executed in a manner that allows the plurality of gaming program objects (operating system subroutines) to

call a set of common functions effectively provided by the system handler application when the system handler application is executed, (col. 27:40-52), and load said gaming program shared objects and device handlers, (col. 27:40- 28:7);

the system handler application comprising an Application Program Interface, (game CPU interface 272), comprising functions callable from the gaming program shared objects (such as debug functions), the Application Program Interface comprising a plurality of gaming functions callable by and used by the plurality of the gaming program shared objects (buffers drivers, debug subroutines, copy Ram, or system break routines), the plurality of functions stored in the computerized game controller, (col. 21:37-64);

the system handler application operable to: initiate execution of a computerized wagering game based on game data variables stored in the nonvolatile storage, (col. 5:19-43);

write game data variables (game information) to at least one of the game state storage and nonvolatile storage when the computerized wagering game is executed, (col. 11:30-44); and

load at least one of the plurality of the gaming program shared objects in response to a change in the stored game data variables by at least another one of the plurality of the gaming program shared objects, (col. 11:30-44); and

the game state storage including a look-up table for the data variables stored in the nonvolatile storage, (col. 3:15-35).

9. Regarding claim 59; Suzuki discloses wherein the system handler application further comprises an event handler, (col. 28:55-64).

10. Regarding claim 60; Suzuki discloses wherein the system handler application comprises software having the ability when executed to: unload a previous gaming program shared object or device handler if a previous object or device handler has been loaded; load a new gaming program shared object or device handler; and execute the new gaming program shared object or device handler. (col. 28:23-36).

- 11. Regarding claim 61;** Suzuki discloses wherein data variables modified by the gaming program shared objects are stored by the system handler application in the nonvolatile storage and a game state storage, and the system handler application functions to verify that the operating system or code for a shared object has not changed, (col. 1:51-2:4).
- 12. Regarding claim 62;** Suzuki discloses wherein the game state storage provides a variable name index to associated variable data locations within the nonvolatile storage, (col. 14:49-65 and 12:12-23).
- 13. Regarding claim 63;** Suzuki discloses wherein changing a data variable in nonvolatile storage causes execution of a corresponding callback function in one of the gaming program shared objects of the system handler application, (col. 2:34-59).
- 14. Regarding claim 64;** Suzuki discloses wherein the computerized game controller comprises an IBM PC-compatible computer, (col. 26:56-60).
- 15. Regarding claim 65;** Suzuki discloses wherein the operating system kernel is a Linux operating system kernel, wherein Linux is a brand name and indefinite, yet the system already uses a known kernel operating system, (col. 27:-40-52).
- 16. Regarding claim 66;** Suzuki discloses wherein the operating system kernel has at least one selected device handler disabled, (col. 32:40-45).
- 17. Regarding claim 67;** Suzuki discloses wherein the at least one selected device handler that is disabled is selected from the group consisting of a keyboard handler, an I/O port handler, a network interface handler, a storage device controller handler, and a I/O device handler, (col. 3:5-14).

18. Regarding claim 68; Suzuki discloses wherein the system handler application and the operating system kernel work in communication to hash system handler application code and operating system kernel code, (col. 27:40-52).

19. Regarding claim 69; Suzuki discloses wherein the operating system is controlled by a general-purpose computer and the nonvolatile storage stores program variables, such that loss of power does not result in loss of the state of the computerized wagering game system, and the system handler application loads a first shared object and the first shared object calls up a gaming function from within an Application Program Interface, (col. 22:8-34).

20. Regarding claim 70; Suzuki discloses wherein the system application handler loads and executes a single shared object at any one time, and wherein the system application handler shares data with at least one other shared object upon execution of the at least one other shared object, (col. 2:60-3:14).

21. Regarding claim 74; Suzuki discloses wherein the wagering game comprises a plurality of segments each comprising a gaming program shared object, wherein the system handler is operable to dynamically change the wagering game from one of the plurality of segments to another of the plurality of segments in response to the change in the stored game data variables, (col. 2:46-59).

22. Regarding claim 75; Suzuki discloses wherein the system handler is operable to dynamically change the segment of the wagering game in response to a change in at least one of the device handlers, (col. 11:45-61).

23. Regarding claim 79; Suzuki discloses further comprising a housing that contains the computerized game controller, including the operating system, the system handler application and the plurality of functions, (fig. 1A; console).

24. Regarding claim 82; Suzuki discloses wherein said gaming program shared objects are loaded and executed one at a time, (col. 2:46-55) shows the objects being loaded one at a time following certain steps.

25. Regarding claim 83; Suzuki discloses wherein the gaming program shared objects share data only through the game data storage, (col. 2:46-55) as covered by the reference all the objects data sharing is performed using solely the game data storage; that is the floppy, the cartridge and the system RAM.

26. Claims 80 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable as applied to claim 58 above, and further in view of Mastera et al. (US 6,315,666 B1).

27. Regarding the analogous art combination; Suzuki as applied above discloses a video game graphics program that loads program objects to be executed; and Mastera discloses the loading of a Bonus gaming object loaded into the working ram to be executed.

28. Regarding claims 80 and 81; Suzuki discloses all the limitations of claim 58 as applied above, yet is silent to Bonus features well-known in the art, whereas Mastera discloses a gaming program with bonus features wherein the plurality of gaming program shared objects include a game object that executes to provide operation of a computerized wagering game, and a bonus object that executes to provide a bonus segment of play, (col. 12:35-57 and col. 13:5-20). And wherein the game object is unloaded and the bonus object is loaded upon changing from normal game operation to bonus operation, with relevant data for the game object and the bonus object stored in nonvolatile storage, (col. 12:35-57 and col. 13:5-20).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the Suzuki invention to include the common use of bonus gaming objects in the invention as it is a well-known state of the art technique for maintaining player interest in the game.

Examiner's Note

29. The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed" *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

10/19/2009

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714